UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS **EASTERN DIVISION**

GREGORIO TREVINO AND ORALIA TREVINO Plaintiffs, v.

 $oldsymbol{\omega}$ U-HAUL INTERNATIONAL, INC., U-HAUL COMPANY OF FLORIDA, INC., GENERAL MOTORS CORPORATION, AND JANET M. DEUTSCH, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF WILLIAM J. GEARY

Defendants.

CASE NO. 1:08-cv-01409

JUDGE ROBERT M. DOW, JR.

PLAINTIFFS' RESPONSE TO U-HAUL DFENDANTS' MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT FOR LACK OF STANDING

Plaintiffs Gregorio and Oralia Trevino file this Response to the U-Haul Defendants' Motion to Dismiss Plaintiffs' Amended Complaint for Lack of Standing and request the Court not dismiss their Complaint.

The U-Haul Defendants contend the Plaintiffs' do not have standing under Texas law to assert their wrongful death claims arising out of the death of their son, Gregorio Trevino, Jr. This suit alleges the Defendants committed conduct that wrongfully caused the death of Gregorio Trevino, Jr. Under Texas law, Gregorio and Oralia Trevino, as the parents of Gregorio Trevino, Jr., have individual wrongful death claims, so that they have justiciable interests and potential benefits in the outcome of this suit. Consequently, they have standing in this action.

The gravamen of Defendants' complaint is that under Texas law there should be only one wrongful death action. Although this "single lawsuit" doctrine of Texas wrongful death law is neither mandatory nor jurisdictional, Plaintiffs do not dispute that, if feasible, the claims of all wrongful death beneficiaries and survival claimants should be consolidated or joined in one action. The remedy to Defendants' complaint, however, is not dismissal of any claims, but rather, consolidation of the two lawsuits pending in this Court.

Plaintiffs, Gregorio and Oralia Trevino, request the Court deny Defendants' Motion to Dismiss. Although Plaintiffs believe the appropriate remedy to address Defendants' complaint is consolidation of the two pending lawsuit, if the Court determines the Plaintiffs claims should be dismissed, Plaintiffs request the Court allow the joinder of their wrongful death claims in the other proceeding, retroactive to the date of their original filing.

Respectfully submitted,

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Page 2 of 3

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June 2008, a copy of the foregoing Plaintiffs' Response to the U-Haul Defendants' Motion to Dismiss Plaintiffs' Amended Complaint for Lack of Standing was served via the Court's CM/ECF system to the following counsel of record:

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